

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

DAVID A. WADDY

CIVIL ACTION NO. 05-0973

VS.

SECTION P

TIM WILKINSON, WARDEN

JUDGE DRELL

MAGISTRATE JUDGE KIRK

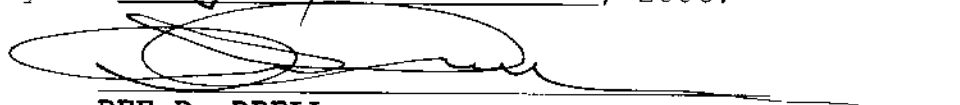
J U D G M E N T

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent review of the record, including the objections filed by petitioner, and having determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that petitioner's "Motion to Vacate a Miscarriage of Justice Pursuant to Fed. Civil P. Rule 60(b)(6)" [doc. 14] insofar as it raises substantive claims for relief be **DISMISSED** as a second and successive petition for writ of *habeas corpus*;

IT IS FURTHER ORDERED that petitioner's "Motion to Vacate a Miscarriage of Justice Pursuant to Fed. Civil P. Rule 60(b)(6)" [doc. 14] insofar as it claims that the court misapplied the timeliness provisions of 28 U.S.C. § 2244(d) be **DENIED**.

THUS DONE AND SIGNED, in Chambers, in Alexandria, Louisiana, on this 24th day of July, 2006.



DEE D. DRELL
UNITED STATES DISTRICT JUDGE